

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 78 be amended to read as follows:

- 1 Page 9, between lines 33 and 34, begin a new paragraph and insert:  
2 "SECTION 12. IC 11-8-8-5.2 IS ADDED TO THE INDIANA  
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2007]: **Sec. 5.2. As used in this chapter, "sex**  
5 **offense" means an offense listed in section 5(a)(1) through 5(a)(17)**  
6 **of this chapter, except for section 5(a)(14) and 5(a)(15) of this**  
7 **chapter."**  
8 Page 26, between lines 4 and 5, begin a new paragraph and insert:  
9 "SECTION 29. IC 35-38-1-7.5, AS AMENDED BY P.L.173-2006,  
10 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2007]: Sec. 7.5. (a) As used in this section, "sexually violent  
12 predator" means a person who suffers from a mental abnormality or  
13 personality disorder that makes the individual likely to repeatedly  
14 engage in ~~any of the offenses described in IC 11-8-8-5~~ **a sex offense**  
15 **(as defined in IC 11-8-8-5.2).** The term includes a person convicted in  
16 another jurisdiction who is identified as a sexually violent predator  
17 under IC 11-8-8-20. The term does not include a person no longer  
18 considered a sexually violent predator under subsection (g).  
19 (b) A person who:  
20 (1) being at least eighteen (18) years of age, commits an offense  
21 described in:  
22 (A) IC 35-42-4-1;  
23 (B) IC 35-42-4-2;  
24 (C) IC 35-42-4-3 as a Class A or Class B felony;  
25 (D) IC 35-42-4-5(a)(1);  
26 (E) IC 35-42-4-5(a)(2);  
27 (F) IC 35-42-4-5(a)(3);  
28 (G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;  
29 (H) IC 35-42-4-5(b)(2); or  
30 (I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or  
31 (2) commits ~~an a sex offense described in IC 11-8-8-5~~ **(as defined**

1           **in IC 11-8-8-5.2)** while having a previous unrelated conviction  
 2           for ~~an a sex offense described in IC 11-8-8-5~~ **(as defined in**  
 3           **IC 11-8-8-5.2)** for which the person is required to register as ~~an~~  
 4           **sex offender** under IC 11-8-8;  
 5           is a sexually violent predator.

6           (c) This section applies whenever a court sentences a person for a  
 7           sex offense ~~listed in IC 11-8-8-5~~ **(as defined in IC 11-8-8-5.2)** for  
 8           which the person is required to register with the local law enforcement  
 9           authority under IC 11-8-8.

10          (d) At the sentencing hearing, the court shall determine whether the  
 11          person is a sexually violent predator under subsection (b).

12          (e) If the court does not find the person to be a sexually violent  
 13          predator under subsection (b), the court shall consult with a board of  
 14          experts consisting of two (2) board certified psychologists or  
 15          psychiatrists who have expertise in criminal behavioral disorders to  
 16          determine if the person is a sexually violent predator under subsection  
 17          (a).

18          (f) If the court finds that a person is a sexually violent predator:

19               (1) the person is required to register with the local law  
 20               enforcement authority as provided in IC 11-8-8; and

21               (2) the court shall send notice of its finding under this subsection  
 22               to the department of correction.

23          (g) A person who is found by a court to be a sexually violent  
 24          predator may petition the court to consider whether the person should  
 25          no longer be considered a sexually violent predator. The person may  
 26          file a petition under this subsection not earlier than ten (10) years after:

27               (1) the sentencing court makes its finding under subsection (e); or

28               (2) a person found to be a sexually violent predator under  
 29               subsection (b) is released from incarceration.

30          A person may file a petition under this subsection not more than one  
 31          (1) time per year. If a court finds that the person should no longer be  
 32          considered a sexually violent predator, the court shall send notice to the  
 33          department of correction that the person is no longer considered a  
 34          sexually violent predator. Notwithstanding any other law, a condition

1 imposed on a person due to the person's status as a sexually violent  
2 predator, including lifetime parole or GPS monitoring, does not apply  
3 to a person no longer considered a sexually violent predator."  
4 Renumber all SECTIONS consecutively.  
(Reference is to SB 78 as printed February 21, 2007.)

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Senator YOUNG R MICHAEL